

T.K.G. asks the Utah Labor Commission to review Administrative Law Judge Hann's dismissal without prejudice of Mr. G.'s claim for benefits under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Annotated).

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Annotated §63-46b-12 and §34A-2-801(3).

BACKGROUND AND ISSUE PRESENTED

Mr. G. filed an Application for Hearing with the Labor Commission on March 25, 2005. The Application alleged that Eugene Morgan & Sons and its insurance carrier, Continental Casualty Co. (referred to jointly as "Morgan" hereafter) were obligated to pay workers' compensation benefits to Mr. G. for injuries he suffered while working for Morgan on April 28, 2003.

Morgan denied that Mr. G. was entitled to any additional benefits. Judge Hann scheduled a hearing on Mr. G.'s claim for September 12, 2005. However, on August 15, 2005, Judge Hann issued an order directing Mr. G. to provide information as requested by Morgan. Judge Hann also changed the hearing date to November 14, 2005.

On September 9, 2005, Morgan moved to dismiss Mr. G.'s claim because he had failed to attend a deposition scheduled by Morgan. Judge Hann granted Morgan's motion and dismissed Mr. G.'s application "without prejudice."

Mr. G. now asks the Commission to review Judge Hann's decision. Specifically, Mr. G. contends that he changed address and did not receive any correspondence regarding this matter after August 1, 2005.

DISCUSSION

Mr. G. asks that he be excused from his failure to appear for deposition because he had changed address and did not receive notice of the deposition. However, it is Mr. G.'s responsibility to either have his mail forwarded, or to notify the Commission and Morgan of the new address. Mr. G. took neither of these actions. Consequently, the Commission concurs with Judge Hann's dismissal without prejudice of Mr. G.'s application.

Mr. G. should note that dismissal of his application "without prejudice" does not preclude him from filing a new application with the Commission to resolve any continuing disputes that may exist regarding his workers' compensation benefits. But if Mr. G. chooses to file another application, he must comply with the Commission's procedures, including the requirement that he keep the Commission and Morgan advised of his correct address and cooperate with Morgan's requests for information.

ORDER

The Commission affirms Judge Hann's dismissal of Mr. G.'s application without prejudice, and denies Mr. G.'s motion for review. It is so ordered.

Dated this 15th day of March, 2006.

R. Lee Ellertson
Utah Labor Commissioner